

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEE ROY BOYD,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

NO. 76-CR-443

1976

O R D E R

The Court has for consideration a motion pursuant to 28 U.S.C. § 2255 filed pro se, in forma pauperis by Lee Roy Boyd. He is a prisoner in the Federal Correctional Institution, El Reno, Oklahoma, pursuant to his plea of guilty to this Court entered May 19, 1964, in case No. 14064, to an indictment charging a Dyer Act in Count One and possession of an illegal firearm in Count Two. The sentence was to five years on each Count, concurrently, to run consecutively to the sentence then being served in the State of Oklahoma, and eligible for parole as the Parole Board should determine as provided in 18 U.S.C. § 4208(a)(2). This is Petitioner's second § 2255 motion to this Court, the previous one, case No. 72-C-331, having been denied by Order of this Court dated and filed February 23, 1973.

As grounds for his present motion, the Petitioner asserts that the prosecuting attorney recommended that he receive a five year sentence on each count to run concurrently and concurrently with an intervening State of Oklahoma sentence, and that the District Judge who took his plea agreed to such plea bargain, but the agreed sentence was not imposed because he was sentenced by a different Judge. The allegation is totally without merit as supported by the transcript and this Court's sure knowledge of the proceedings.

Although it is true that I accepted the plea and the sentence was imposed by another Judge, there was no such sentence as claimed by the petitioner recommended by the Government, and most assuredly this Court did not participate in any plea bargaining nor agree to such sentence as clearly supported by the record which forecloses the necessity for a hearing herein.

The Defendant Boyd when he entered his plea of guilty was before the Court on his motion to suppress evidence, and defense counsel admitted in open Court that his investigation had proved that the motion

could not be well taken, withdrew his motion with Defendant Boyd's agreement of record, and a plea of guilty was entered. The prosecuting attorney, as appears at page 3 of the transcript, asked the Defendant:

"You have been advised that the maximum punishment on Count 1 would be a fine of \$5,000 and five years imprisonment? And that the maximum punishment on Count 2 would be a fine of \$2,000 and five years imprisonment?"

Defendant Boyd's answer was, "Yes, sir."

This Court also asked, as appears at page 8 of the transcript:

"Mr. Boyd, . . . do you understand on a plea of guilty to these two counts the Court can sentence you to as much as ten years and fine you \$7,000?"

Again, Defendant Boyd's answer was, "Yes, sir."

The defense counsel requested immediate sentencing without waiting for a pre-sentence report and informed the Court that the Defendant Boyd was given a ten-year sentence suspended in Texas for burglary, had received an eighteen-year sentence as a result of a high-jacking at Ponca City, which would run consecutive to the sentence to be revoked in Texas. ". . . I would like to ask at this time that Your Honor sentence both defendants to the maximum term as provided for by law, and let that sentence run concurrently with the eighteen years received up in Ponca City, the State charge. . . . I might add one more thing, Your Honor: . . . there were possibly one or two other high-jackings on the way up here from Texas."

The Court asked: "What assurance do you have that you have all the record, . . .? To which question defense counsel deferred to the prosecuting attorney who informed the Court that they (Defendant Boyd and his co-defendant) committed two burglaries in Texas, stole a gun, stole a car which they brought to Oklahoma, committed armed robbery of a filling station at Ada, committed another armed robbery in Kay County, were arrested in Bartlesville and taken back to Kay County, escaped and were apprehended in another state, then returned to Kay County where they each received an eighteen year sentence. Thereafter, the Court stated, as appears at page 8 of the transcript:

"I believe a pre-sentence report would not be mitigating in its findings; nevertheless I find it very beneficial to know. So the Court will have them report to the Probation Officer for a pre-sentence report; and we will set sentence for June 2nd at 9:30 in the morning."

The Court finds that the § 2255 motion is without merit and should be overruled.

IT IS, THEREFORE, ORDERED that the motion pursuant to 28 U.S.C. § 2255 of Lee Roy Boyd be and it is hereby overruled, denied, and the case is dismissed.

Dated this 30th day of December, 1976, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

United States of America vs.

United States District Court for

NORTHERN DISTRICT OF OKLAHOMA

DEFENDANT

HARRY L. FITZGERALD

DOCKET NO.

76-CR-130-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 21 YEAR 76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Larry Henry, Retained

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☒ NOLO CONTENDERE,

☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of **having violated Title 15, U.S.C., Sections (e) (a) (2) and (x), as charged in Counts one and two of the Information.**

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that ~~the defendant be committed to the custody of the Attorney General for a period of one year.~~

Counts 1 and 2 - The imposition of sentence is hereby suspended and the defendant is placed on unsupervised probation for a period of One (1) year, count two to run concurrently with count one.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

Allen E. Sarver

Date 12-21-76

CERTIFIED AS A TRUE COPY ON

THIS DATE 12-21-76

By *Waugher*

() CLERK

() DEPUTY

DEFENDANT

ROBERT S. TRIPPET

DOCKET NO. 76-CR-23-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 21 YEAR 76

COUNSEL

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

X WITH COUNSEL

Pat Malley and James Long, Retained

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

X NOLO CONTENDERE,

NOT GUILTY

There being a finding/verdict of

NOT GUILTY. Defendant is discharged

X GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of having violated Title 18, U.S.C. Sections 371 and 1341, as charged in Counts one thru ten of the indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Counts 1 thru 10 - The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of three (3) years, counts 2 thru 10 to run concurrently with count 1. The special conditions of probation are that the defendant is fined \$19,000., payable to the U.S. Court Clerk for payment to U.S. Treasury, and FURTHER ORDERED to pay to Trustee in Home-Stake bankruptcy proceedings \$100,000. within 90 days from this date. Payment to the trustee shall be held by trustee, first, for the benefit of widows, orphans or children of participants; second, the balance, if any, for destitute participants who file a claim with the trustee within 1 year showing proof of actual loss from their Home-Stake investment. The trustee may pay these claims in his discretion, and if there is any disagreement as to validity of a claim, appeal will lie to the reorganization Judge. Third, after 1 year from this date, the balance of the funds will be paid on approved claims, from civil cases pending in this Court, on a pro rata basis to participants who show proof of actual loss on their Home-Stake investment. This group of claimants shall not include the sophisticated and knowledgeable investor, heads of corporations investors who had the advice of investment advisers, CPAs or stockbrokers. Any loss shall be computed so as not to include any amounts saved by the claimants as a result of income tax benefits received. If there are no such claims, the balance of funds will be refunded to the defendant.

IT IS FURTHER ADJUDGED that the defendant is to report to the probation officer every three (3) months.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

X U.S. District Judge

U.S. Magistrate

Allen E. Barnard

Allen E. Barnard

Date

12-21-76

CERTIFIED AS A TRUE COPY ON

THIS DATE 12-21-76

By J. H. Houghton

() CLERK

() DEPUTY

DEFENDANT

FRANK E. SIMS

NORTHERN DISTRICT OF OKLAHOMA

DOCKET NO.

76-CR-23-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
12 21 76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Irvine Ungerman and John Roberts, RETAINED
(Name of counsel)

DEC 21 1976

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☒ NOLO CONTENDERE,

☐ NOT GUILTY

FINDING &
JUDGMENT

There being a finding/verdict of
☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of **having violated Title 18, U.S.C. Sections 371 and 1341, as charged in Counts one thru ten of the indictment.**

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: ~~The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of~~

Counts 1 thru 10 - The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of One (1) year, counts 2 thru 10 to run concurrently with count 1.

SPECIAL
CONDITIONS
OF
PROBATION

The special condition of probation is that the defendant pay to the trustee in the Home-Stake bankruptcy proceedings \$5,000.00 within wight (8) months from this date. This money shall be held by trustee first, for the benefit of widows, orphans, or children of participants; second, for destitute participants who file a claim with the trustee within one (1) year showing proof of actual loss from their Home-Stake investment. The trustee may pay these claims in his discretion, and if there is any disagreement as to validity of a claim, appeal will lie to the reorganization Judge. Third, after one (1) year from this date, the balance of the funds will be paid on approved claims, from civil cases pending in this Court, on a pro rate basis to participants who show proof of actual loss on their Home-Stake investments. This group of claimants shall not include the sophisticated and knowledgeable investor, heads of corporations, investors who had the advice of investment advisers, CPAs or stockbrokers. Any loss shall be computed so as not to include any amounts saved by the claimants as a result of income tax benefits received. If there are no such claims, the balance of funds will be returned to the defendant.

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☐ U.S. District Judge

☒

☐ U.S. Magistrate
XXXXXXX

CERTIFIED AS A TRUE COPY ON

THIS DATE

12-21-76

By

[Signature]

() CLERK

() DEPUTY

Date

12-21-76

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOHN PAUL LONG, et al.,)
)
Defendants.)

No. 76-CR-78

FILED

Jack C. Smith, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has before it for consideration a Motion for New Trial filed by the defendant John Paul Long. The Court has carefully considered said Motion and the Brief in support thereof, along with the law applicable to the issues raised therein and makes the following determination in regard to said Motion.

Defendant asserts in his Motion that the United States failed to prove the Indictment against him in its entirety and that the verdict is contrary to the weight of the evidence and not supported by substantial evidence. In addition thereto, defendant asserts that the Court erred in denying his Motion for Acquittal offered at the conclusion of the Government's evidence. Although defendant Long acknowledges that he was found in possession of certain counterfeit obligations of the United States, he contends the Government failed to prove he was a part of the conspiracy as alleged.

A conspiracy is an agreement between two or more persons to commit one or more unlawful acts, and is complete when one or more of the conspirators knowingly commit an act in furtherance of the object of the conspiracy. Braverman v. United States, 317 U.S. 49, 53, 63 S.Ct. 99, 87 L.Ed. 23 (1942); Goldsmith v. Cheney, 447 F.2d 624 (10th Cir. 1971); Jordan v. United

States, 370 F.2d 126 (10th Cir. 1966), cert. denied 386 U.S. 1033, 87 S.Ct. 1484, 18 L.Ed.2d 595 (1967). The agreement need not be express, nor in any particular form. It is sufficient "if the minds of the parties meet and unite in an understanding way with the single design to accomplish a common purpose. . . ." Martin v. United States, 100 F.2d 490, 495 (10th Cir. 1938). "The proof necessary to support a conviction for conspiracy is necessarily not direct. The nature of the offense and the secrecy involved require that the elements of the crime be established by circumstantial evidence, and the common purpose or plan may be inferred from the development or the combination of circumstances." Jordan, supra, 370 F.2d at 128. See also Glasser v. United States, 315 U.S. 60, 62 S.Ct. 457, 86 L.Ed. 680 (1942); Baker v. United States, 329 F.2d 786 (10th Cir. 1964) cert. denied, 379 U.S. 853, 85 S.Ct. 101, 13 L.Ed.2d 56 (1964); Dennis v. United States, 302 F.2d 5 (10th Cir. 1962), In addition, convictions will generally be sustained "if the circumstances, acts and conduct of the parties are of such character that the minds of reasonable men may conclude therefrom that an unlawful agreement exists." Jones v. United States, 365 F.2d 87, 89 (10th Cir. 1966). See also United States v. Birmingham, 454 F.2d 706 (10th Cir. 1971); United States v. Winn, 411 F.2d 415 (10th Cir. 1969), cert. denied, 396 U.S. 919, 90 S.Ct. 245, 24 L.Ed.2d 198 (1969); O'Neal v. United States, 240 F.2d 700 (10th Cir. 1957).

The indictment in this case alleged that John Long, along with other named co-conspirators, did willfully and knowingly combine, conspire, confederate and agree together to manufacture, possess, sell, transfer, conceal and utter counterfeit obligations of the United States.

Evidence was presented at trial to the effect that Roger Ray Vaughan initiated a scheme to counterfeit money. In January of 1976, he discussed his plan with defendants Jimmy Carroll Dick

and Robert Lee Dick, Jr., who subsequently agreed to partially finance the operation. Mr. Vaughan thereafter discussed the printing of the counterfeit obligations with Richard Arlin Brown in California. Thereafter initial steps were taken to produce the obligations. Mr. Vaughan then inquired of John Long whether he would be interested in helping Vaughan finance the operation or in buying any counterfeit money. The evidence indicated John Long agreed to buy \$20,000.00 worth of the counterfeit obligations and Vaughan related this information to Jimmy Dick. Furthermore, Vaughan told Long he was going to California to have the money printed. It appears from the evidence at trial that John Long was the only defendant who actually purchased any of the counterfeit obligations for distribution, and was in fact later apprehended in the State of Missouri after he attempted to pass some of them.

As stated, the Indictment charges a conspiracy to manufacture, possess, transfer and utter counterfeit money. It is apparent that in order to successfully accomplish the illegal objectives of a counterfeiting conspiracy, not only must a means of manufacture be established, but also a means of transferring or uttering the counterfeit money must be established. The evidence clearly indicates that John Long aided the conspirators in accomplishing the illegal objective of transferring and uttering the counterfeit obligations. As stated in McManaman v. United States, 327 F.2d 21 (10th Cir. 1964):


"It is not essential that each conspirator participate in all the activities of the conspirators in furtherance of the conspiracy or have knowledge of such activities. It is sufficient if the conspiracy is established and that the convicted persons knowingly contributed their efforts in furtherance of it."

Furthermore, a party may join a conspiracy during its progress and be held responsible for all acts in furtherance of the scheme. United States v. Thomas, 468 F.2d 422 (10th Cir. 1972).

A single act may be the foundation for drawing the actor within the ambit of a conspiracy if the act is such that one may reasonably infer from it an intent to participate in the unlawful enterprise. United States v. Thomas, supra.

In considering a motion for new trial based upon the sufficiency of the evidence, the evidence must be considered in the light most favorable to the prosecution. United States v. Gleeson, 411 F.2d 1091 (10th Cir. 1969). Applying this criteria to the case at bar, it is the determination of the Court that the Motion for New Trial filed by John Long should be and hereby is overruled.

It is so Ordered this 21st day of December, 1976.


H. DALE COOK
United States District Judge

DEFENDANT

FLOYD AUGUST DAVIS

DOCKET NO.

75-CR-43

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH

DAY

YEAR

12

21

76

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

Robert G. Brown, Court Appointed

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY

There being a finding/verdict of

NOT GUILTY. Defendant is discharged

DEC 21 1976

GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of

having violated 18 U.S.C.,

Sections 371 and 2113(d), as charged in the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Count One - Five (5) Years

Count Three - Twenty (20) Years

IT IS FURTHER ORDERED that the sentence imposed in Count Three shall commence at the expiration of and run consecutively to the sentence imposed in Count One.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. District Judge

U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date

12-21-76

DEFENDANT

FRED RAY HANSEN

DOCKET NO. ➔

76-CR-82

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government
the defendant appeared in person on this date ➔

MONTH	DAY	YEAR
12	21	76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSELRobert G. Brown, Retained

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,☒ NOT GUILTY

DEC 21 1976

There being a ~~finding~~ verdict of { ☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.FINDING &
JUDGMENTDefendant has been convicted as charged of the offense(s) of **having violated T. 21, U.S.C.,
Sections 841 A-1 and 846, as charged in the Indictment.**SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Two (2) Years**IT IS FURTHER ORDERED that the defendant is sentenced to a special parole term of Three (3) Years, to commence at the expiration of the sentence imposed herein.****IT IS FURTHER ORDERED that the defendant may become eligible for parole at such time as the U. S. Parole Commission may determine as provided in T. 18, U.S.C.A., Section 4205(b)(2).**SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge☐ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE _____

By _____

() CLERK

() DEPUTY

Date **12-21-76**

DEFENDANT

PAUL ELMER KENNEDY, JR.

DOCKET NO.

76-CR-82

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO-245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH

DAY

YEAR

12

21

76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Jim Collins, Retained

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of **having violated T. 21, U.S.C., Section 841 A-1 and 846, as charged in the Indictment.**

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for ~~incarceration~~

treatment and supervision until discharged by the Federal Youth Correction Act as provided by T. 18, U.S.C., Section 5010(b).

IT IS FURTHER RECOMMENDED that the Parole Commission consider this defendant for early parole if his term of confinement is such that it warrants that consideration.

IT IS FURTHER ORDERED that the execution of sentence is deferred until January 3, 1977, at 9:00 a.m., at which time the defendant shall report to the U. S. Marshal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☐ U.S. District Judge

☒ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date 12-21-76

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DEC 20 1976

Jack C. Silver, Clerk
U. S. DISTRICT COURT *JS*

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
JACKIE LEE SCOTT, et al.,)
)
Defendants.)

NO. 76-CR-123-12 ✓

O R D E R

The Court has for consideration a motion filed by counsel on behalf of the Defendant, Jackie Lee Scott, seeking discretionary modification of sentence pursuant to Rule 35, Federal Rules of Criminal Procedure.

After review of the motion, study of the file, and reflection, and being fully advised in the premises, the Court finds that the motion for modification of sentence should be sustained.

IT IS, THEREFORE, ORDERED that the Judgment and Commitment Order entered herein on November 3, 1976, be and it is hereby modified to the sentence as follows:

The Defendant, Jackie Lee Scott, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of:

Count One--Two (2) months.

Count Two--The imposition of sentence is suspended and the Defendant is placed on probation for a period of three (3) years to commence at the expiration of the sentence in Count One.

It is the intent of this Order modifying sentence that the Defendant, Jackie Lee Scott, be released from jail-type confinement on January 2, 1977.

Dated this 20th day of December, 1976, at Tulsa, Oklahoma.

Allen E. Barron
CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEFENDANT

MICHAEL McLEMORE

DOCKET NO.

76-CR-64-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH

DAY

YEAR

12

16

76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

John Klenda & Joseph Abraham, P.C.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged ☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of **having violated Title 21, U.S.C., Section 841(a)(1), as charged in the indictment.**

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Treatment and supervision until discharged by the Adult Youth Correction Act as provided by T. 18, U.S.C., Section 4216:5010(b).

IT IS FURTHER ADJUDGED that execution of sentence be deferred until January 25, 1977, at 10:00 A.M., at which time defendant is to present himself to the U. S. Marshal.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

COMMITMENT RECOMMENDATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

☒ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date 12-16-76

DEFENDANT

SUSAN M. ESMAN FELTZ

DOCKET NO.

76-CR-133-1

JUDGMENT AND PROBATION/ COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
12 - 16 - 76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Gomer A. Evans, Jr. (Appointed)

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☐ NOT GUILTY

DEC 16 1976

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☐ GUILTY.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of **having violated T. 18, Sections 2 & 1708 in Count 15 of the Indictment; having violated T. 18, Sections 2 & 2314 in Count 16 of the Indictment; and having violated T. 18, Section 371 in Count 17 of the Indictment.**

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: ~~The defendant is committed to the custody of the Attorney General and recommended to the Department of Corrections.~~

Cts. 15, 16 and 17 - Imposition of Sentence is Suspended and the Defendant is placed on probation for Two (2) Years as to each count pursuant to T. 18, Section 5010(a). Counts 16 and 17 are to run concurrently with Count 15. Period of probation is to run from this date.

SPECIAL
CONDITIONS
OF
PROBATION

As conditions of probation, Defendant is to make restitution of \$100.00 to the Clerk of the Court, U.S. District Court, Northern District of Oklahoma, beginning in January, 1977, for payment to the U.S. Treasury.

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

ALLEN E. BARRON
CHIEF JUDGE

Date December 16, 1976

DEFENDANT

DUANE RICHARD SCHMITT

DOCKET NO.

76-CR-165-B

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH	DAY	YEAR
12	16	76

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☐ WITH COUNSEL

Jack Sellers, Ret.

(Name of counsel)

FILED

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☒ NOLO CONTENDERE,

☐ NOT GUILTY

DEC 16 1976

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of **having violated Title 18, U.S.C.,
Section 656, as charged in Counts one and two of the Information.**

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

Cts. 1 and 2 - Twenty-five (25) months, and on the condition that the defendant be confined in a jail type institution for a period of One (1) month, the execution of the remainder of the sentence of imprisonment is hereby suspended and the defendant is placed on probation for twenty-four (24) months, Count 2 to run concurrently with Count 1.

IT IS FURTHER ADJUDGED that the execution of sentence is deferred until January 4, 1977, at which time the defendant is to present himself to the U. S. Marshal at 9:00 A.M.

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

Halfway House, Oklahoma City, Oklahoma, or minimal security institution.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date

12-16-76

DEC 15 1976

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver
Clerk, U. S. District Court

UNITED STATES OF AMERICA,
v.
ROBERT S. TRIPPET, et al.,
Plaintiff,
Defendants.

NO. 76-CR-23

O R D E R

The Court has under advisement, at the close of all of the evidence, the motion for acquittal of the Defendant, Norman C. Cross, Jr. Pursuant to its duty, the Court has reviewed all of the evidence in the light most favorable to the Government, with full recognition of the right of the jury to determine credibility, weight of the evidence, and to draw justifiable inferences of fact. From this review of the evidence, the Court is now faced with the responsibility of making the determination of whether there is substantial evidence from which the jury could properly find or infer, beyond a reasonable doubt, that the Defendant on trial is guilty of the crimes charged in this indictment.

Evidence to be substantial must do more than merely raise a suspicion of the existence of facts sought to be proved; there must be more established than mere suspicion of guilt. A conviction cannot be based upon evidence which is consistent with both innocence and guilt. The Court finds that the Government's evidence is equally strong to infer innocence of the crimes charged as it is to infer guilt, and there has been no finger of guilt pointed at the Defendant, Norman C. Cross, Jr., by the evidence before this Court. Therefore, this Court has the duty to direct an acquittal.

The Court, during the many weeks of this trial, has had ample opportunity to observe this jury, and from that observation has concluded that the jurors are attentive, conscientious, and persons of reason. Therefore, it is concluded by the Court, on review of the evidence, that there would unquestionably be a reasonable doubt in the minds of the jurors as a matter of law which precludes submission of this case to them.

This Order is in no way a reflection on the abilities and preparation of the prosecution team before this Court. They did not create the facts, yet they have been assigned the task of prosecuting this complex

and complicated case. They have inherited the burden of representing the United States in this trial following the maze of Agency investigations, grand juries, arraignments, transfers and retransfers, appeals, two indictments prior to this indictment, and numerous pre-trial motions, all of which have been complicated by the Speedy Trial Act, which Act was passed although opposed by all investigatory and prosecutorial bodies, as well as by lawyers and their defendant clients, and yes, the Courts as well. You as attorneys for the Government have the Court's commendation for your efforts, decorum and ethical conduct in the trial of this case. Further, the Court desires to note that the Defendant has been represented by his most able counsel who properly exercised every defense and pleading available for the protection of the accused. The Defendant could not have been better represented. We must all recall our principle of law that all defendants are considered innocent until proved guilty beyond a reasonable doubt, and that protection abides with them at all times during the trial.

The decision herein is rendered after much study, review of the record, the exhibits, the stipulations, and all other pertinent evidence before the Court. The Court cannot in good conscience, under the law, delegate its responsibility by following the path of least resistance by submitting the case to the jury. The Court does not doubt that the jury would be equally motivated by the evidence to absolve the Defendant of blame and find him not guilty of the ten counts in the indictment. However, all defendants in this Federal Court enjoy the protection against submission of any case to a jury when the evidence does not warrant such action. The legal duty, and the responsibility to perform that duty, prevents casting the burden of a verdict upon the jury and protracting the unknown agony which the Defendant must have necessarily suffered in what must seem an unbearable experience of almost four years of investigatory, accusatory, and prosecutorial stages.

IT IS, THEREFORE, ORDERED that the motion made at the close of all of the evidence to acquit the Defendant, Norman C. Cross, Jr., of all ten counts of the indictment should be and it is hereby sustained. The

Defendant, Norman C. Cross, Jr., is hereby acquitted of all ten counts of the indictment. All other pending motions and offers of exhibits are hereby overruled as moot. The bond is exonerated and the Defendant is free to depart forthwith.

Done in open Court this 15th day of December, 1976, at Tulsa, Oklahoma.



CHIEF JUDGE, UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

DEFENDANT

BILLIE EARL BURRELL

DOCKET NO.

76-CR-133

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH DAY YEAR
12 8 76

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

Roy W. "Bud" Byars, Retained
(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOT GUILTY 1976

FINDING & JUDGMENT

There being a finding/verdict of
NOT GUILTY. Defendant is discharged
GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated T. 26, U.S.C., Section 5861(d), as charged in the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Three and one-half (3½) Years from this date.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. District Judge

U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date 12-8-76

DEFENDANT

PHILLIP WAYNE WALKER

DOCKET NO. 76-CR-135

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH

DAY

YEAR

12

8

76

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

David W. Griffith, Court Appointed

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☐ NOT GUILTY

DEC 8 1976

FINDING & JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated T. 18, U.S.C., Section 1708, as charged in Count One of the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Two (2) Years from this date, under the Federal Youth Correction Act, pursuant to T. 18, U.S.C., Section 5010(a).

SPECIAL CONDITIONS OF PROBATION

IT IS FURTHER ORDERED that the restitution in the amount of \$198.20 which has previously been paid to the Court Clerk, be transferred to the U. S. Treasury by the Court Clerk.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☐ U.S. District Judge

☒ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON THIS DATE

By

() CLERK

() DEPUTY

Date 12-8-76

DEFENDANT

BARBARA ALLEN BAKER

DOCKET NO. 76-CR-140

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

In the presence of the attorney for the government the defendant appeared in person on this date

MONTH 12 DAY 8 YEAR 76

COUNSEL

WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

WITH COUNSEL

Phil Frazier, Court Appointed

(Name of counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea,

NOLO CONTENDERE,

NOTED 12-8-76

FINDING & JUDGMENT

There being a finding/verdict of NOT GUILTY. Defendant is discharged. GUILTY.

Defendant has been convicted as charged of the offense(s) of having violated T. 18, U.S.C., Sections 371 and 1702, as charged in Count One of the Indictment.

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of Two (2) Years from this date, under the Federal Youth Correction Act, pursuant to T. 18, U.S.C., Section 5010(a).

SPECIAL CONDITIONS OF PROBATION

The condition of probation is that the defendant make restitution in the amount of \$42.50 to the Court Clerk for payment to the U. S. Treasury, in regular monthly payments beginning in December, 1976, at \$5.00 per month until paid in full.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

U.S. District Judge

U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date 12-8-76

United States of America vs.

United States District Court for

DEFENDANT

BRUCE ALLEN WHITE

NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6, 74)

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
12 1 76

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Don McCorkell, Jr., Court Appointed

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY E D

FINDING &
JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

DEC 1 - 1976

Defendant has been convicted as charged of the offense(s) of having violated T. 18, U.S.C. Section 1503, as charged in the Indictment.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

It is the finding of the Court that the defendant is the age of 20 years, subject to the Youth Correction Act, and it is the further finding of the Court that the defendant would not derive appropriate benefit from the Youth Correction Act, and is therefore sentenced under the applicable statute.

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: ~~The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of~~

The imposition of sentence is hereby deferred and the defendant is placed on probation for a period of Two (2) Years, to commence after and run consecutive to service of sentence heretofore pronounced in 76-CR-80.

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

By

() CLERK

() DEPUTY

Date 12-1-76

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

DARLENE RAE FOSTER, et al.,)

Defendants.)

No. 76-CR-53-C

DEC 1

ORDER SUSTAINING MOTION FOR REDUCTION OF SENTENCE

On October 29, 1976, and on November 17, 1976, the Court received requests from the defendant, Darlene Rae Foster, which seek to have the Court review the sentence imposed on this defendant. After a plea of guilty to a violation of Title 21, U.S.C. § 846, this Court on July 23, 1976, sentenced the defendant, Darlene Rae Foster, to two (2) years imprisonment. In addition to said sentence the Court imposed a special parole term of three (3) years. The Court sentenced this defendant under Title 18 U.S.C. § 4205(b)(2) which allows her to become eligible for parole as the United States Parole Commission may determine. On August 20, 1976, the Court overruled defendant's previous motion for a reduction of sentence. On September 23, 1976, the Court overruled defendant's second Motion for Reduction of Sentence.

In treating defendant's third request for a review of her sentence as a Motion for Reduction of Sentence pursuant to Rule 35 of the Fed.R.Crim.P., the Court has again carefully reviewed the entire record as it pertains to this defendant and finds that the sentence imposed as indicated herein should be reduced.

The defendant has timely filed her third Motion for Reduction or Modification of Sentence. Pursuant to Rule 35 of the Fed.R.Crim.P.,

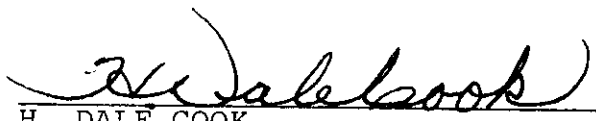
the Court has jurisdiction to consider the Motion if it is filed within 120 days of the date of sentencing. United States v. Stollings, 516 F.2d 1287 (4th Cir. 1975).

IT IS THEREFORE ORDERED that the Judgment and Sentence entered herein on July 23, 1976, be and it is hereby modified to read as follows:

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of eighteen (18) months. In addition to said term of imprisonment, the Court imposes a special parole term of three (3) years.

IT IS FURTHER ORDERED that the defendant may become eligible for parole as the United States Parole Commission may determine pursuant to Title 18 U.S.C. § 4205(b)(2).

It is so Ordered this 28th day of December, 1976.


H. DALE COOK
United States District Judge